

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 22-24 are cancelled herein without prejudice to or disclaimer of the subject matter set forth therein. Claims 2, 4-6, 8, 10, 12-14, 16, 18, 19, and 21 were previously cancelled. Claims 1, 3, 7, 9, 11, 15, 17, 20, and 25-27 are currently being prosecuted. Claims 1, 9, and 17 are independent. The Examiner is respectfully requested to reconsider his rejection in view of the Amendments and Remarks as set forth hereinbelow.

Examiner Interview

The examiner appreciates the courtesies extended to the Applicant's Representative, Carl T. Thomsen, Reg. No. 50,786 during the telephone interview on October 1, 2008.

During the interview, the Examiner stated that, based on the amendments to the specification and claims made herein, that he would withdraw his rejection under 35 U.S.C. 112, first paragraph and the objections to the specification and drawings.

If, during further examination of the present application, a discussion with the Applicant's Representative would advance the prosecution of the present application, the Examiner is encouraged to contact Carl T. Thomsen, Registration No. 50,786, at 1-703-208-4030 (direct line) at his convenience.

Objection to the Specification and Drawings

The Examiner alleges that the inclusion of reference numerals 91, 92 and 92f and 92r constitutes new matter.

First of all, the Applicant points out that each of these elements was clearly illustrated in the drawings as originally filed. In addition, paragraph [0032] as originally filed recites:

[0032] “As shown in Figure 3A, the resin member forming the seat has a certain degree of vertical thickness to function as a buffer for the rider. Therefore, when the RFID is attached to one of the positions 71b, 71c, 71d, or 71e, the distance between the RFID and the seat surface is comparatively long. On the contrary, when the RFID is attached to the front or rear part of the seat, such as the positions 71a or 71f within the seat, the distance to the front or rear of the seat surface is comparatively short, respectively. Therefore, when the distance that read/write signals (electromagnetic waves) for the RFID travel over is comparatively short, the RFID is provided at the position whose distance to the seat surface is relatively short, for example the positions 71a or 71f. This allows the reader to be brought closer to the RFID, thus facilitating reading and writing”.

In view of the disclosure in the original drawings and specification, the Applicant submits that the subject matter set forth in each of independent claims 1, 9, and 17, including:

“wherein the vehicle seat includes an internal member extending between the front side and the rear side of the vehicle seat,

wherein a front side of the internal member faces substantially in a forward direction, and a rear side of the internal member faces substantially in a rearward direction,

wherein the tag is disposed either on the front side of the internal member or is disposed on the rear side of the internal member”

does NOT constitute new matter as alleged by the Examiner.

The Applicant respectfully points out that drawings are part of Applicant’s original disclosure and can be used to provide proper support for subject matter recited in the claims.

In particular, the Examiner is directed to the numerous examples of U.S. Court decisions (See below) supporting the Applicant’s position that drawings are part of Applicants’ original disclosure and can be used to provide proper support under 35 USC § 112, first paragraph for subject matter recited in the claims.

Accordingly, the objections to the specification and drawings are now moot, and withdrawal of the objections is respectfully requested.

Rejection Under 35 U.S.C. § 112, first paragraph

Claims 22-27 stand rejected under 35 U.S.C. § 112, first paragraph. This rejection is respectfully traversed.

First of all, the Applicant concedes that reference numerals 71a to 71f in FIG. 3A denote alternative locations where the tag may be mounted.

The claims have been amended to remove all references to multiple tags. In addition, Applicant has amended the specification in order to provide proper antecedent basis in the specification for each of the elements in the claimed subject matter.

The Examiner will note that, by way of this Amendment, independent claims 1, 9, and 17, have been amended to incorporate, respectfully, the subject matter of dependent claims 22-24.

In the rejection of dependent claims 22-24 on page 5 of the Office Action, the Examiner asserts that the recitation of “an internal member extending between a front and a rear of the vehicle seat, wherein a front side of the internal member faces substantially in a forward direction, and a rear side of the internal member faces substantially in a rearward direction”, constitutes new matter.

The Applicant respectfully disagrees with the Examiner’s position.

In response, the Applicant respectfully points out that drawings are part of Applicant’s original disclosure and can be used to provide proper support under 35 USC § 112, first paragraph for subject matter recited in the claims. See, for example, *In re Wolfensberger*, 133 USPQ 537 (CCPA 1962); *Great Northern Corp. v. Davis Core & Pad Co.*, 226 USPQ 540, 561, affirmed at 228 USPQ 356 (Fed. Cir. 1966); *Kurt H. Volk, Inc. v. Foundation for Christian Living*, 213 USPQ 756, 773 (S.D. N.Y. 1982); *Ex parte Porter*, 25 USPQ2d 1144, 1146 (BdPatApp&Int 1992), *In re Schreiber*, 128 F.3d 1473, 1477-79, 44 USPQ2d at 1431-32, *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (Fed. Cir. 1991), *In re Mraz*, 455 F.2d 1069, 1972, 173 USPQ 25, 27 (CCPA 1972) and *In re Heinle*, 342 F.2d 1001, 1007, 145 USPQ 131, 136 (CCPA 1965).

In this regard, Applicant points out that it has been held that drawings alone constitute proper disclosure even if what is shown in the drawings is accidental. See Ex parte Prybil, 156 USPQ 64 (Bd. Pat. App 1967). Moreover, such disclosure is available for all that it teaches one of ordinary skill in the art. See In re Meng and Driessen, 181 USPQ 94 (CCPA 1974) and In re Aslanian, 200 USPQ 500 (CCPA 1979). Moreover, while patent drawings are normally not drawn to scale, they may nevertheless be used to establish relationships or proportions between the various components which are clearly depicted therein. In re Schreiber, 128 F.3d 1473, 1477-79, 44 USPQ2d at 1431-32, Vas-Cath Inc. v. Mahurkar, 935 F.2d 1555, 1565, 19 USPQ2d 1111, 1118 (Fed. Cir. 1991), In re Mraz, 455 F.2d 1069, 1972, 173 USPQ 25, 27 (CCPA 1972) and In re Heinle, 342 F.2d 1001, 1007, 145 USPQ 131, 136 (CCPA 1965).

Moreover, while ordinarily a patent drawing which accompanies an application for a patent is merely illustrative of the principle embodied in the alleged invention claimed therein and does not define the precise proportions of the elements, where the dimensions illustrated are such as to be reasonable and proper, and essential to the proper performance of the invention, it is proper to support claims directed to such dimensions on such illustration. Bloodhart v. Levernier, 1933 C.D. 260, 433 O.G. 510, 64 F.2d 367, 17 USPQ 188. We may, therefore, within these limitations, resort to the drawings to determine whether they will properly support the claims. See Ex parte SCESA AND SPERANZA (BdPatApp&Int) 117 USPQ 459 Patent issued June 10, 1958. Opinion dated Jan. 29, 1958.

If the Examiner insists that his rejection is appropriate, he is requested to point out to the Applicant where U.S. Patent Rules or Laws provide the basis for such a rejection.

Otherwise, reconsideration and withdrawal of this rejection are respectfully requested.

The Applicant respectfully submits that the claims, as amended, are fully supported by and adequately described in the written description of the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) - Office Action dated February 1, 2008

Claims 1, 3, 7, 9, 11, 15, 17, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Johannes (NL 9101758) in view of Yassin et al. (U.S. Patent 6,505,780). This rejection is respectfully traversed.

Arguments regarding Independent Claims 1, 9, and 17

While not conceding the appropriateness of the Examiner's rejections, but merely to advance the prosecution of the present application, each of independent claims 1, 9, and 17 has been amended to recite a combination of elements directed to a vehicle, including *inter alia*

“wherein the vehicle seat includes an internal member extending between the front side and the rear side of the vehicle seat,

wherein a front side of the internal member faces substantially in a forward direction, and a rear side of the internal member faces substantially in a rearward direction,

wherein the tag is disposed either on the front side of the internal member or is

disposed on the rear side of the internal member”.

By contrast, as the Examiner concedes, Johannes does not teach the tag attached inside said resin member of said vehicle seat. The Examiner then points to Yassin et al. (column 5, lines 19-30) alleging that this document makes up for the deficiency of Johannes.

However, as can be understood from Yassin et al. column 5, lines 19-30, this document merely discloses a RFID tag 2 configured to be carried by the driver of a vehicle to unlock the door of the vehicle, in which case the single RFID reader 1A is positioned appropriately. Alternatively, if the RFID tag 2 is not used to unlock the vehicle, the RFID reader 1A may be placed inside the vehicle, such as within or near the driver’s seat.

Nowhere do Yassin et al. provide any hint or suggestion that

“wherein the vehicle seat includes an internal member extending between the front side and the rear side of the vehicle seat,

wherein a front side of the internal member faces substantially in a forward direction, and a rear side of the internal member faces substantially in a rearward direction,

wherein the tag is disposed either on the front side of the internal member or is disposed on the rear side of the internal member”, as set forth in each of claims 1, 9, and 17 of the present invention.

At least for the reasons set forth above, the combination of elements set forth in each of independent claims 1, 9, and 17 is not taught or suggested by the combination of references cited by the Examiner, including Johannes and Yassin et al.

Therefore, independent claims 1, 9, and 17 as previously presented are in condition for allowance.

Dependent Claims

The Examiner will note that dependent claims 22-24 have been canceled, and dependent claims 7, 15, 20, and 25-27 have been amended. All dependent claims are now in condition for allowance due to their dependence from allowable independent claims, or due to the additional novel features set forth therein.

All claims of the present application are now in condition for allowance

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Carl T. Thomsen, Registration No. 50,786, at direct line (703) 208-4030 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By



Paul C. Lewis
Registration No.: 43,368
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant